

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ALFONSO PERCY PEW,

Plaintiff,

v.

CORRECTIONAL OFFICER ACE, *et al.*,

Defendants.

No. 1:21-CV-01694

(Chief Judge Brann)

(Magistrate Judge Carlson)

ORDER

JUNE 10, 2022

Alfonso Percy Pew filed a 42 U.S.C. § 1983 complaint alleging that numerous individuals violated his rights through the use of oleoresin capsicum spray (“OC Spray”).¹ In April 2022, Magistrate Judge Martin C. Carlson issued a Report and Recommendation recommending that this Court grant Defendants’ motion to revoke Pew’s authorization to proceed *in forma pauperis*.² Magistrate Judge Carlson reached this recommendation after determining that Pew’s complaint failed to assert imminent harm, as the use of OC Spray allegedly began more than 18 months prior to the filing of the complaint, and there was no credible allegation that the use of OC Spray would continue in the immediate future.³ Pew filed timely objections to the Report and Recommendation.⁴

¹ Doc. 1.

² Doc. 26.

³ *Id.*

⁴ Docs. 27, 28.

“If a party objects timely to a magistrate judge’s report and recommendation, the district court must ‘make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’”⁵ Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge’s findings or recommendations.⁶ After reviewing the record, the Court finds no error in Magistrate Judge Carlson’s recommendation that Defendants’ motion be granted and Pew’s *in forma pauperis* status be revoked. Accordingly, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Martin C. Carlson’s Report and Recommendation (Doc. 26) is **ADOPTED**;
2. Defendants’ motion to revoke authorization to proceed *in forma pauperis* (Doc. 12) is **GRANTED**;
3. Pew’s authorization to proceed *in forma pauperis* is **REVOKED**; and
4. Pew shall pay the required filing fee on or before July 8, 2022, or the Court will *sua sponte* dismiss Pew’s complaint.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
Chief United States District Judge

⁵ *Equal Emp’t Opportunity Comm’n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)).

⁶ 28 U.S.C. § 636(b)(1); Local Rule 72.31.